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## THE UNIT RULE IN NATIONAL NOMINATING CONVENTIONS

FOR a period of one hundred years the Constitution has been in process of extra-legal amendment. In its written form it provides for the election of a president and vice-president in a certain way, but those officers are now elected in a different way. They are elected, so to say, by a process of elimination. Each party makes the elimination within its own ranks and presents a candidate for the final contest ; the machinery for making these eliminations is the nominating convention.

It is generally supposed that the national conventions of the two parties are very similar in the general characteristics of their organization—that the actual differences between them are very few. A careful study of the subject will show that this is true ; but it will also show that however few the differences may be, they are yet important and fundamental, and reveal the underlying tendencies and principles of the two parties. These differences may be summed up in what are known as the two-thirds rule and the unit rule. The first of these rules provides that no candidate shall be declared nominated unless he shall have received two-thirds of all the votes cast. It has prevailed in Democratic conventions only. The second of these rules is one which allows (but does not compel) the majority of a state delegation to cast the entire vote of the state. It is, properly speaking, not a rule of the national convention, but only of the individual delegations ; it is a method of casting the state ballot—a manner of voting ; and has reference to the national convention only in so far as that body permits or does not permit its use. This rule also has prevailed only in Democratic conventions.

The two-thirds rule, though in its origin no part of the unit rule, may at the present time be justly considered part and parcel of it. The first Democratic convention adopted the rule requiring a two-thirds majority because it was believed that nominations thus made would have greater authority with the people. But the authority of the national convention soon became such that it was no longer necessary to resort to such devices, for its decisions would be considered binding in any case, and many efforts were therefore made

to do away with the practice entirely. None of them were successful, and the two-thirds rule has been perpetuated; perpetuated for the reason, as the debates show,<sup>1</sup> that it was thought to supplement the unit rule which so many states were using, and was considered in justice a necessity so long as the latter rule was allowed to prevail. A little thought will show how, if the two-thirds rule were abrogated, a few very large states being nearly evenly divided on candidates, and yet enforcing the unit rule, might secure a majority for a candidate whose actual strength would measure only a small minority. While the use of the two-thirds rule does not make this condition of affairs impossible, it lessens the probability that it will occur; and we may therefore consider those two rules as practically inseparable—two parts of a single system, and that system the casting of state votes as a unit. It is then the so-called unit rule which is of importance, and in which we must seek the differences between the two conventions. I do not believe that this rule or its significance is very generally or very well understood; to trace its history from the beginning of both parties—to show what has been the attitude of both parties toward its introduction and use in their national conventions, and to point out from the results obtained its general meaning will be the object of this paper.

To begin with, it may not be unprofitable to quote from a recent writer on the subject, in order to have something definite in mind the while, for purposes of comparison and criticism. Mr. Dallinger, who has recently written a book for the Harvard Historical Studies,<sup>2</sup> says on page 41: "Either in the form of a rule adopted by the convention or in the form of instructions by the state conventions the practice of having the majority of each state delegation cast the entire vote of the state soon became firmly fixed in the proceedings of both the leading political parties. The first successful revolt against this disregard of the right of the minority occurred in the national convention of the Republican party in 1876." Again on page 134 he says: "This undemocratic custom . . . was abandoned by the Republicans in 1880; but it still prevails in a modified form in the national councils of the Democratic party."

With these statements in mind we may proceed to examine in detail what rules the national conventions have passed, and what discussions have occurred with reference to this matter.<sup>3</sup> My plan

<sup>1</sup> Particularly in 1844; see Niles, LXVI. 211 ff.

<sup>2</sup> *Nominations for Elective Office in the United States* New York, 1897.

<sup>3</sup> It is hardly necessary to say that the main sources for this subject are the journals of the conventions. These have been published for the most part under the direction of the executive committees of the national committees, and bear the title of *Official Proceedings*. In a few instances in which these have not been obtainable, the best detailed

is the simple one of examining each convention in order, and considering, first, the rules which were adopted, and second, the discussion which occurred, together with such other evidence as may have a bearing upon the general problem in hand.

## I. DEMOCRATIC CONVENTIONS.<sup>1</sup>

The first Democratic convention was held in 1832, and the committee on permanent officers reported, among other things, the following resolution :<sup>2</sup> "That in taking the vote the majority of the delegates from each state designate the person by whom the votes for that state shall be given." This is vague. It may or may not give the majority the right to cast the entire vote ; it probably does not. But it at least has this significance : it shows a tendency at the very beginning to leave the decision of all such matters to the state, or the delegations which represent the state.

In 1835 the same resolution was again adopted.<sup>3</sup> In balloting for vice-president Ohio gave her entire vote (21) for Richard M. Johnson, whereupon a delegate protested that not all the delegates had voted for Johnson. The chair ruled that it was a matter for the delegation to decide for itself.<sup>4</sup>

Nothing new appears until 1848. This year the following resolution was adopted :<sup>5</sup> "Resolved, that in voting upon any questions which may arise in the proceedings of the convention the vote shall be taken by states at the request of any one state . . . the manner in which said vote is cast to be decided by the delegation of each state for itself." This rule gave rise to no discussion during the convention ; and indeed in the earlier assemblies as a whole, very little is said about the justice or injustice of unit voting, from which we may infer that the practice itself was not very common.

The next convention, that of 1852, adopted the same rule word for word.<sup>6</sup> On the thirty-fourth ballot for president Georgia gave

reports in the various newspapers have been used. These main sources I have supplemented by such newspapers and memoirs, etc., as were at my command.

<sup>1</sup> Four Anti-Masonic conventions were held, in the fall of 1830, 1831, 1837 and 1838. I have not been able to find what rules, if any, were adopted with reference to the method of voting. But it is clear that the question never was prominent enough to excite any discussion ; and these conventions can have had, therefore, little or no influence in this matter, on the policy of any other party. See Niles, XXXIX. 58 ; XLI. 109 ; LIII. 68 ; LV. 177, 221. The same may be said of the Liberty Party conventions of 1840 and 1843. See Niles, LVIII. 96 ; LXV. 47.

<sup>2</sup> Niles, XLII. 235.

<sup>3</sup> Niles, XLVIII. 227.

<sup>4</sup> Niles, XLVIII. 229.

<sup>5</sup> Niles, LXXIV. 74.

<sup>6</sup> *Official Proceedings*, 1852, p. 8.

ten votes for Stephen A. Douglas. Mr. Jackson, on behalf of the Union Democracy of the state, protested that this did not express the voice of the people. The chair ruled that the vote must be recorded as announced.<sup>1</sup>

The same rules were again adopted in 1856 and in 1860; but the committee in 1860 recommended this addition:<sup>2</sup> "That in any state which has not provided or directed by its state convention how its vote may be given, the convention will recognize the right of each delegate to cast his individual vote." The adoption of this amendment was accompanied by some discussion which is mostly not of great importance.<sup>3</sup> Mr. Cessna, chairman of the committee, explained why the amendment had been introduced. He said that the practice of preceding conventions had always been in harmony with its provisions, but that the committee feared it was now the intention of some states to interpret the old rules in a different way. The amendment was to prevent this; it was to make any other construction of the rules than the ordinary one impossible.<sup>4</sup>

Several questions were raised under this amendment during the course of the convention. Nelson of Georgia claimed the right to cast his individual vote because the delegation had been merely "requested," not instructed to vote as a unit; but the chair ruled that the words "provided or directed" in the amendment made a "request" as binding as an instruction, and that the vote of the state must therefore be cast as a unit.<sup>5</sup> The New Jersey delegation had been "instructed" to vote as a unit for president, but on all other questions only "recommended" to vote as a unit. When the minority report on platform came up the minority of the New Jersey delegation made a protest on this ground; the chair ruled here as in the case of Georgia, but an appeal from the decision of the chair was sustained by a vote of 145 to 157.<sup>6</sup>

This is fine quibbling. A recommendation amounts to an instruction unless both words have been used, in which case it does not. The thing to be noted, however, is the distinction which the amendment makes between the state convention and the delegation.

<sup>1</sup> *Ibid.*, p. 57.

<sup>2</sup> *Official Proceedings*, 1860, p. 10.

<sup>3</sup> *Ibid.*, p. 11.

<sup>4</sup> *Official Proceedings*, 1860, p. 12. The *New York Times* (April 25, p. 4) says this "innovation was designed to set at liberty certain Douglas votes from Massachusetts, Pennsylvania and elsewhere, otherwise overwhelmed by an unfriendly majority." This is not likely, since the Douglas men did not control the organization of the convention. The report of the committee of which this amendment was one part passed with one dissenting vote. See *Official Proceedings*, 1860, p. 15.

<sup>5</sup> *Official Proceedings*, 1860, p. 46.

<sup>6</sup> *Ibid.*, p. 51.

The decisions of the former with regard to unit voting are recognized as valid—the decisions of the latter are not.

It was owing to difficulty over the adoption of a platform that a number of the Southern states seceded from this convention in a body. A majority of the delegates from Georgia decided to withdraw with the others. Ten delegates, however, remained and claimed to represent the state; but the chair ruled that Georgia had withdrawn. An appeal was taken and the chair was sustained by a vote of 148 to 100.<sup>1</sup> In the Virginia state convention a resolution to instruct the delegation to vote as a unit had been withdrawn on the ground that it was not necessary, since Virginia had always voted as a unit, and the precedent thus established was too strong to be disregarded. A majority of the delegation on this plea tried to force a unit vote on the twenty-third ballot, but the chair held that “unless instruction had been given by the state each individual had a right to cast his own vote.”<sup>2</sup> In the Baltimore convention the rule and precedents of the Charleston convention were followed.<sup>3</sup>

At the close of 1860 then the unit rule may be stated as follows: As to the method of casting the ballot of a delegation the state convention is supreme; its instructions must be followed. In case no instructions are given the national convention then assumes authority and says that each individual delegate shall be allowed to cast his own vote.

It is probable that the rulings of 1860 were followed by an increase in the number of states which instructed their delegates to vote as units; and it is certain that the instructions which were given were now made more definite. Since the states were given assurance that their instructions would be recognized if they were clear there would almost inevitably be a tendency towards more general and more definite instructions. After 1860, therefore, we find very little quibbling as to whether a state has “instructed” or merely “recommended” its delegation—whether its expressed wishes amount to an instruction or not. The tendency was more and more to accept unquestioned the statement of the vote as announced by the chairman. So strong did this tendency become, and so convenient perhaps,—probably for the reason that so many of the states instructed their delegations as to make the interferences of the national body extremely rare,—that an amendment was passed in 1872 incorporating this practice into a law of that convention. A

<sup>1</sup> *Official Proceedings*, 1860, p. 69.

<sup>2</sup> *Ibid.*, p. 80.

<sup>3</sup> *Ibid.*, p. 162.

resolution to proceed to ballot for president and vice-president was before the house when Mr. Cox of New York moved to amend as follows :<sup>1</sup> "And that in casting the vote for president and vice-president, the chairman of each delegation shall rise in his place and name how the delegation votes, and his statement alone shall be considered the vote of such state." So far as voting for candidates is concerned, this practically abolishes the amendment of 1860. For, if the chairman's statement is alone to be considered the vote of a state, no means is left to discover whether a delegation which votes as a unit is doing so under state instruction, or whether the majority may not be in the absence of instruction forcing a unit vote through its control of the chairman. As a matter of fact few objections were made on this latter ground, but those few were—necessarily under the amendment—declared out of order.<sup>2</sup>

Whether it has been intended to include this amendment of 1872 as a part of the rules of succeeding conventions is not perfectly clear. It has always been the practice of Democratic conventions to adopt the rules of the preceding convention without stating specifically what those rules are.<sup>3</sup> But the amendment of 1872 was not an amendment to the general body of rules, as the amendment of 1860 was, but only to a motion to proceed to ballot. When, therefore, the convention of 1876 adopted the rules of 1872, did it mean to include this specific amendment? The practice of the convention of 1876 and following conventions seems to indicate that it was intended so to include it; for until 1896 the statements of the chairman have been more or less arbitrarily received and all objections have been ruled out of order. And this is true not only of the balloting for candidates but of all ballots in which state voting occurred, so that this specific amendment of 1872 seems not only to have been made a part of the general rules of the succeeding conventions, but its application seems also to have been broadened to apply to all questions on which a state vote was called for.

The interpretation of the unit rule which the amendment of 1872 established was apparently acceptable to most of the party; at any rate no serious objections seem to have been made up to 1884. But there was undoubtedly a small minority who never favored the rule in any shape and were especially opposed to it in its present form. If circumstances were to arise which should favor a movement to abolish it, they were there to aid in the attempt.

<sup>1</sup> *Official Proceedings*, 1872, pp. 57, 58.

<sup>2</sup> Such protests seem to have been made four years later by Ohio and Virginia. See *Official Proceedings*, 1876, pp. 148, 149.

<sup>3</sup> This practice has led to much confusion. Another example will be noticed in the convention of 1896. See also *Official Proceedings*, 1884, p. 9, note.

Such an opportunity came in 1884. Grover Cleveland was perhaps the most prominent candidate. His record as reform governor of New York had given him popularity throughout the country; but at the same time it had incurred the enmity of the New York and Brooklyn machine element. This element was in a minority, however, and when the New York delegation, following out the instruction of its state convention, decided by a vote of 47 to 25 to cast the entire vote for Cleveland, Mr. Grady and Mr. Kelly made violent speeches on the part of Tammany in opposition to the unit rule and threatened to carry their objection into the national convention.<sup>1</sup> This they did. The question being on an amendment to the rules, Mr. Grady moved an amendment to the amendment,<sup>2</sup> "And when the vote of a state as announced by the chairman of the delegation from such state is challenged by any member of the delegation then the secretary shall call the names of the individual delegates from the state and their individual preferences as expressed shall be recorded as the vote of such state." The adoption of this amendment meant, of course, the abolishment of unit voting.

The position of those who supported the amendment was in general that the unit rule disfranchised a minority—frequently a large minority. In most states the representatives were elected in districts for the purpose of representing the district and not the state as a whole. The delegates at large, who represented the state as a whole, might well be instructed by the state. If unit instructions were ever advisable it would be when they were made with reference to a specific policy or a particular candidate. It was the practice of broadly instructing delegations to vote as a unit on all questions as the majority dictated, which was especially objectionable.<sup>3</sup> Those who opposed the amendment, on the other hand, spoke of the right of the state to say how its will should be expressed. To deny the states this right is to strike a blow at their sovereignty. The Republican party, which stands for centralized power, may with impunity trample on their hereditary privileges, but as for the Democratic party, it "stands for the rights of the states." The amendment was finally lost by a vote of 332 to 463.<sup>4</sup>

The leaders, in their attempt to abolish the practice of unit voting, were undoubtedly animated by the desire to defeat Mr. Cleveland, more than by real hostility to the practice itself. Undoubtedly also the support they received was largely recruited from the oppo-

<sup>1</sup> *New York World*, July 8, 1884, p. 1.

<sup>2</sup> *Official Proceedings*, 1884, p. 9.

<sup>3</sup> *Ibid.*, pp. 19, 20.

<sup>4</sup> *Ibid.*, p. 39.



sition to Mr. Cleveland throughout the country. "It is understood," says the *New York World*,<sup>1</sup> "and generally conceded that the vote on the unit rule meant the field against Cleveland." This, however, is too strong; the question was something more than one of opposition to Mr. Cleveland. The vote itself shows this, for whereas the unit rule was supported by a vote of 463, Mr. Cleveland received on the first ballot only 392. In the New York delegation, too, the majority for Mr. Cleveland was only 22, but a resolution to sustain the unit rule was carried by a majority of 50. Therefore while the struggle centred around Mr. Cleveland's candidacy, the question of the unit rule was also a real question and the resolution was not supported or opposed simply because it might aid in defeating or nominating a certain candidate.

When the vote was taken a very interesting example of resistance to the unit rule occurred in the case of New York. I quote it because it illustrates very well the kind of thing that so frequently happened, and the results which invariably followed. New York being called, the chairman announced seventy-two votes no.

Cockran: "I challenge that vote."

Manning:<sup>2</sup> "I have to state, Mr. Chairman, that the vote in the delegation is 48 noes and 15 ayes."

Cockran: "Then I ask that it be so recorded."

Clerk: "New York casts seventy-two votes no."

Cockran: "That is challenged, Mr. Chairman, and I move that the Secretary call the roll and poll the delegates. I do not vote aye nor no either, till I hear my own voice."

Chairman: "Gentlemen of the convention, the chairman of the state of New York announces so many votes no."

Cockran: "How many?"

Chair: "Seventy-two."

Cockran: "I say the chairman has announced in the hearing of this convention that there are but forty-eight noes, and I move that that be recorded as it stands."

The chair allowed a protest to be recorded, but his final decision was couched in these careful words: "The chair decides that the announcement made by the chairman *prima facie* is the vote . . . . *prima facie*. Whether it shall stand as a vote is a question for the convention."<sup>3</sup> This, however, was the final word, and the minority of the New York delegation was forced to submit to the majority because it could find no help in the national convention to which it appealed.

From 1884 to 1896 no further change was made. In practice the amendment of 1872 was followed as it had been up to 1884.

<sup>1</sup> July 9, p. 1.

<sup>2</sup> Chairman of the delegation.

<sup>3</sup> *Official Proceedings*, 1884, pp. 37-38.

Protests were sometimes made by the minorities of delegations, but in no case were they ever sustained by the convention.

But in 1896, though the convention adopted the rules of the preceding conventions, it did not interpret them as they had been interpreted by former conventions. Very early in the proceedings the presiding officer<sup>1</sup> established a new precedent, which, without discussion or objection, was followed during the rest of the convention. The vote was on substituting the name of J. W. Daniel for that of David B. Hill for temporary chairman. Iowa under unit instruction voted 26 yea. Stackhouse objected.

The Chair: "The Secretary will call the roll of delegates from the state of Iowa."

Stone, of Mo.: "I understand the Democrats of the state of Iowa adopted the unit rule, and I desire to know whether the majority of the delegation cannot cast the entire vote of the State?"

Chair: "The chair holds that the proposition as stated by the gentleman from Missouri is entirely correct. The chair further holds that if a delegate from any given state challenges the accuracy or integrity of the vote of a state as announced, that then the list of delegates from that state shall be called for the purpose of verifying the vote as reported."

Meanwhile the polling of the Iowa delegation had resulted in a vote of 19 to 7 in favor of substituting.

The Chair: "The Iowa delegation having been instructed to vote as a unit, the vote of that state will be recorded as 26 votes yea."<sup>2</sup>

Here again it is evident that no one knew just what the rules of 1892 were. Whether or not the amendment of 1872 had in theory been adopted by succeeding conventions, it had in practice been made to do service in all of them up to and including that of 1892. But the decision of the chair which has just been noticed altogether ignores the amendment of 1872 and goes squarely against the interpretations which every convention had put upon it for twenty years. On the other hand the words of the presiding officer seem to imply that unless the delegation is acting under state instructions, the majority cannot cast the entire vote of the state, thus going back to the amendment of 1860, which apparently had been a dead letter ever since 1872. The ruling of 1896, therefore, by killing one amendment and reviving another, may fairly be said to have placed the unit rule on a new footing in the Democratic convention, which briefly stated is as follows: When the vote is by states the announcement of the chairman of a delegation is accepted as the correct vote of that delegation unless challenged by some member of it, in which case the delegation is polled in open convention. If

<sup>1</sup> William F. Harity, chairman of the national committee.

<sup>2</sup> *Official Proceedings*, 1896, p. 94.

the delegation is under unit instructions, the vote of the state is then cast as a unit with the majority ; if not the vote stands as polled.

It will thus be seen that the so-called unit rule was not a positive rule adopted by the convention from the first, and compelling the states to vote as units, but a practice of the states which gradually crept into the proceedings of the convention. The objections and discussions which the practice aroused resulted, from time to time, in the passage of rules which have had the effect of leaving the manner of voting to be decided by each state for itself. To just what extent the practice of unit voting obtained in the earlier conventions cannot be determined ; first, because in the records of votes it is impossible to distinguish those states which, in the truest sense, voted unanimously, from those which voted unanimously as the result of the unit method, and secondly, because the accounts of state meetings which sent delegates to the early national conventions are so meagre that, if instructions as to the method of voting ever were given, no records of them remain. The principal reason for thinking that the practice was not very general at first is the fact that few objections and little discussion occur before 1856. I have carefully registered all these objections and discussions, and their results ; for it is here that the beginnings of unit voting must be sought. No such practice existed in earlier state conventions, if for no other reason, because the nature of such meetings was such as not readily to admit of it. One cannot, therefore, put one's finger on any particular time or place and say, here is the origin of unit voting. The idea doubtless came naturally to many men at the same time, as the result of viewing the states as sovereign states, with a will which would be expressed properly only as a unit. But the early conventions were not carefully organized ; no limits of the number of delegates were enforced, and nominations were frequently mere matter of form ; indeed, these gatherings had many of the characteristics of mass meetings, and it was impossible, therefore, that the method of voting should be a prominent or a vital question. It was only when the growing organization of the convention forced the states to limit themselves to an assigned number of delegates that the method of voting came to have an interest as a part of that organization. Then, in dealing with this question of procedure, the doctrine of states' rights made itself felt, and, as the dominant idea, became crystallized in definite regulations.

## II. WHIG CONVENTIONS.

From 1832 to 1852, when the last independent Whig convention was held, the ballot for candidates was taken on a roll-call of the

delegates every time but twice. In 1839 and 1852 only, was the ballot taken in such a manner as to allow of the use of a unit rule. These two conventions, therefore, are the only ones it will be necessary to consider.

The convention of 1839<sup>1</sup> adopted a very long and cumbrous rule for balloting, the like of which has never been known, either before or since that time.<sup>2</sup> In effect the balloting was done secretly by states, and the result finally communicated to the convention through the agency of committees in such a way as to give the greatest possible opportunity for combinations and intrigue. Each state was compelled to vote as a unit. This rule is said to have been the culmination of a shrewd scheme to defeat Henry Clay.<sup>3</sup> The evidence is not altogether conclusive. It rests for the most part on a statement in Wise's *Seven Decades* (pp. 165 ff.) of a prophecy made by Judge White of Tennessee, who foretold the results and stated the process by which they would be reached. However that may be, the rule itself is unique inasmuch as it forced the states to vote as units; but it seems to have had no influence on the later conventions of any party.

In 1852 the ballot was taken for the first time by a roll-call of the states, and the rule provided that the chairman of each delegation should announce "the person or persons for whom the vote is given."<sup>4</sup> This was not very definite, and some interesting discussions occurred in the course of the fifty-odd ballots that were taken. On the first five ballots Illinois cast a united vote for Winfield Scott; but on the sixth the delegate from the seventh district said he would no longer misrepresent his constituents, and voted for Millard Fillmore. Mr. Washburn said the delegates from Illinois had been instructed to vote in such manner as the majority might determine, and therefore they had voted as a unit. After some debate and confusion it was decided that the delegate had a right to vote as he chose.<sup>5</sup> On the twentieth ballot the chairman of the Missouri delegation said that Missouri had voted for Mr. Fillmore but wished now to divide the vote, and asked if "power existed to do so." The chair ruled that the matter was with the delegates themselves.<sup>6</sup>

<sup>1</sup> These early conventions were sometimes held as much as a year or a year and a half before the elections.

<sup>2</sup> For the rule see Niles, LVII. 249 ff.

<sup>3</sup> See Von Holst, *Constitutional History of the United States*, II. 361-369. See also an amusing statement by Benton, *Thirty Years' View*, II. 204.

<sup>4</sup> *National Intelligencer*, June 21, 1852.

<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.*

These two rulings are somewhat conflicting. What use the party might have made of the unit rule had it continued to exist it is difficult, perhaps quite impossible, to say. There appears, it is true, to have been some tendency towards the Democratic custom, inasmuch as the state of Illinois had instructed her delegation to vote as a unit, and in the case of Missouri the chair decided that the matter was one to be left to the delegation.

### III. REPUBLICAN CONVENTIONS.<sup>1</sup>

With the Republican conventions we come to a consistent and unmistakable policy with regard to unit voting; the policy namely of allowing each individual delegate to cast his own vote as he chooses under all circumstances. There have been few attempts to introduce the practice which prevails in the Democratic convention, and in every case such attempts have failed.

The first Republican national convention was held in 1856, and the manner of voting for candidates is provided for on page 27 of the *Official Journal*. The committee on credentials,<sup>2</sup> which also reported rules, recommended "that the chairman of each delegation present the number of votes given to each candidate for president by the delegates from his state . . ." No question could well arise as to the proper interpretation of a rule like this, and apparently none did arise.

In 1860 different rules were reported and the manner prescribed for the casting of votes was less definite. "Four votes," so runs the rule,<sup>3</sup> "shall be cast by the delegates at large of each state and each congressional district shall be entitled to two votes. The votes of each delegation shall be reported by its chairman." On the first ballot for president under this rule Maryland voted eleven for Bates. Cole objected on the ground that the Maryland delegation had not been instructed to vote for Bates. Armor, the chairman of the delegation, explained that the state convention had at first instructed

<sup>1</sup> The Free-Soil party, which may in some sense be considered the forerunner of the Republican party, held conventions in 1848 and in 1852. In the former the question of unit voting was not raised; in the latter the rule that each individual delegate should have one uncontrolled vote was adopted. See *New York Herald*, August 11, 12, 1848; and August 13, 1852.

<sup>2</sup> The rules of 1856 were reported from the committee on credentials. Beginning with 1860 and continuing down to the present time there has been a special committee on Rules and Order of Business. In the Democratic conventions up to 1852 no definite custom prevailed. Rules were commonly adopted in open convention without reference to any committee at all, although in 1832 a committee on "officers" reported the rules of that convention. Since 1852 rules have always been reported by the committee on permanent organization.

<sup>3</sup> *Official Proceedings*, 1860, p. 109.

the delegation, but later had changed the instruction to a mere recommendation. It was on the force of this recommendation that he had announced the vote as eleven for Bates. The chair then ruled that the announcement of the chairman must be accepted unless the convention decided otherwise. He therefore put the question to the convention :<sup>1</sup> "Shall the vote announced by the chairman be received by the convention as the vote of the state of Maryland? The question was decided in the negative." It is not stated by how large a majority the question was lost.

The three subsequent conventions made no change in the rule for the casting of votes save that in the third—that of 1872—a slight change in phraseology was introduced.<sup>2</sup>

The year 1876 marks the appearance of a desire among certain Republicans to introduce the Democratic custom into their party. The Louisiana delegation at its meeting just previous to the convention resolved in accord with state instructions to force a unit vote on the delegation.<sup>3</sup> In the New York meeting we are told that the "attempt of some of the Conkling men to enforce a unit vote failed."<sup>4</sup> And the Pennsylvania convention gave the following instructions to its delegates :<sup>5</sup> "Upon all questions to be brought before or arising in the convention, to cast the vote as a unit as a majority of the delegation may dictate." In the national convention itself, however, the rule which the committee reported was apparently perfectly unambiguous in its opposition to any unit voting. It reads as follows :<sup>6</sup> "In the record of the votes by states, the vote of each state . . . shall be announced by the chairman, and in case the votes . . . shall be divided the chairman shall announce the number of votes cast for any candidate, or for or against any propositions." I have said that this was apparently perfectly unambiguous. But Pennsylvania seemed determined to stand by her instruction, and her action raised objections which led to a somewhat extended discussion. Fifty-eight votes had been cast by that state for Hart-ranft ; but two delegates desired to vote for Blaine and demanded that their votes be so recorded. The chair, after consulting the rule, decided "that it is the right of any and every member equally to vote his sentiments in this convention."<sup>7</sup> An appeal from the de-

<sup>1</sup> *Official Proceedings*, 1860, pp. 150-51.

<sup>2</sup> The rule is as follows: "Rule 2. Each state shall be entitled to double the number of its senators and representatives . . . according to the recent apportionment . . . The votes of each delegation shall be reported by its chairman." *Official Proceedings*, p. 24. For 1864 see *Official Proceedings*, p. 101-2. For 1868, see *ibid.*, p. 60.

<sup>3</sup> *New York Tribune*, June 14, 1876, p. 14.

<sup>4</sup> *Ibid.*, June 13, p. 1.

<sup>5</sup> *Ibid.*, June 14, p. 1.

<sup>6</sup> *Ibid.*, June 16, p. 5.

<sup>7</sup> *Ibid.*, June 17, p. 1.

cision was made, but the chair was sustained by a large majority ; the whole matter was reconsidered for discussion, after which the chair was again sustained, this time by a vote of 395 to 354.<sup>1</sup> The Louisiana delegation evidently receded from the position taken in its preliminary meeting, for the vote of that state was divided throughout.

The only serious attempt to introduce unit voting into the Republican conventions was made in 1880—not because any one was enamored of the custom, but because certain men had special ends in view and thought to serve them by its use. A desperate effort was made to nominate General Grant for a third term. Senator Conkling of New York, Senator Cameron of Pennsylvania and Senator Logan of Illinois set themselves to work to give their candidate the prestige of an undivided vote from those states. This could be done only by shrewd management, because the third-term doctrine was very unpopular. In Pennsylvania and New York conventions were held early and unit instructions were passed with no great difficulty.<sup>2</sup> In Illinois more method had to be used. The Grant men secured control of the organization and the chair appointed a committee to report a list of delegates to the national convention. The time-honored custom was for the delegation from each district in the state to appoint its own national delegate ; but the new plan of a committee left them no choice and resulted in a solid Grant delegation from Illinois.<sup>3</sup> The same tactics apparently had been used in many of the county conventions previously.<sup>4</sup> Besides these states, Arkansas, Alabama and Texas were also instructed to vote as a unit for General Grant.<sup>5</sup>

The revolt began at once. In Illinois, indignation meetings were held throughout the state,<sup>6</sup> and anti-Grant delegates were sent to the convention.<sup>7</sup> Many of the New York and Pennsylvania delegates stated their intention, as the time drew near, not to abide by the instructions which they had received.<sup>8</sup> Nevertheless the leaders continued in their determination to nominate General Grant by forcing the unit rule upon the convention. The plan of action seems to have been somewhat as follows :<sup>9</sup> Senator Cameron, who was chairman of the national committee, was to call the convention

<sup>1</sup> *Ibid.*, p. 7.

<sup>2</sup> *New York Tribune*, May 14, 1880, p. 4 ; *Chicago Tribune*, May 14, p. 4

<sup>3</sup> *Ibid.*, May 22, 1880, p. 1, 4.

<sup>4</sup> *Chicago Tribune*, May 14, 1880, p. 1.

<sup>5</sup> *New York Tribune*, May 28, 1880, p. 4.

<sup>6</sup> *Ibid.*, May 27, 1880, p. 1.

<sup>7</sup> *Ibid.*, June 5, p. 5.

<sup>8</sup> *Ibid.*, May 5, p. 5, and May 6, p. 1.

<sup>9</sup> *Ibid.*, May 26, p. 1.

to order, and present the temporary chairman, which that committee had selected, to the convention. If a Grant man, he was to rule that all the delegations, which were under state instructions to vote as a unit, must abide by those instructions. If an anti-Grant man (which was not improbable since the national committee was thought to have a majority who were opposed to Grant), some one was to move to substitute the name of a Grant man in his stead and in the ballot Senator Cameron would enforce the unit vote on all instructed states. Such was the plan of the supporters of General Grant to secure for themselves the organization of the convention. But the matter never reached the convention at all. It was fought out in the preliminary meeting of the national committee. It turned out that about twenty-nine of the committee were anti-Grant men; and knowing well that some scheme was afoot to force the unit rule on the convention they presented the following resolution to the committee when they met:<sup>1</sup> “*Resolved*, That the committee recognize the right of each delegate in a Republican National Convention freely to cast and to have counted his individual vote therein according to his own sentiments, and, if he so decide, against any unit rule or other instructions passed by a state convention; which right was conceded without dissent and was exercised in the conventions of 1860 and 1868, and was after full debate confirmed by the convention of 1876; and has thus become a part of the law of Republican Conventions and until reversed by a convention itself must remain a governing principle.” The adoption of such a resolution would have been fatal to Senator Cameron’s plans, and he knew that a majority of the committee were in favor of it, because the twenty-nine anti-Grant members had held a caucus the evening before, in which they had denounced the practice of unit voting and had agreed to present such a resolution to the committee when it came together.<sup>2</sup> He therefore resolved upon a bold step. He refused to put the question when the resolution was offered, and declared every one out of order who tried to appeal from his decision.<sup>3</sup> In short he tried to intimidate the committee out of its simplest rights. His action led to a storm of denunciation. Meanwhile the anti-Grant men of the committee were quietly preparing to remove the senator from the chairmanship; but rather than submit to this he yielded and a compromise was effected. The unit rule was not enforced in the temporary organization and the senator was permitted to retain his position as chairman.<sup>4</sup>

<sup>1</sup> *New York World*, June 1, 1880, p. 1.

<sup>2</sup> *New York Tribune*, June 1, 1880, p. 1.

<sup>3</sup> *New York World*, June 1, 1880, p. 1.

<sup>4</sup> *New York Tribune*, June 1, 1880, p. 1.



This ended the matter. The convention organized quietly, with the anti-Grant men in control. Garfield was made chairman of the committee on rules, and the rule which he drew up then with reference to balloting by states has been retained by Republican conventions ever since. It is a model of precision, and makes unit voting impossible except in cases where the minority neglects or refuses to make any objection. It is as follows:<sup>1</sup> "Rule 8. In the record of the vote by states the vote of each state . . . shall be announced by the chairman, and in case the vote of any state . . . shall be divided, the chairman shall announce the number of votes cast for any candidate or for or against any proposition; but if exception is taken by any delegate to the correctness of such announcement by the chairman of his delegation, the president of the convention shall direct the roll of members of such delegation to be called and the result shall be recorded in accordance with the votes individually given." Neither Conkling, Cameron, nor Logan<sup>2</sup> made any attempt to cast the votes of their respective states as a unit; the votes of these states were divided from the first ballot. Of the Southern states which were uninstructed, Alabama, Kentucky and Texas cast undivided votes on the first ballot. Arkansas voted solidly for Grant throughout the convention.

During the convention the only question having any relation to unit voting was raised by the state of Michigan. The vote was on directing the committee on rules to report. Mr. Joy, stating that one of the delegates from Michigan was on the committee of credentials, wished to know if the delegation had the right to cast his vote in his absence, knowing how he would vote. But the chair decided against even this.<sup>3</sup>

With the exception of the convention of 1888, which substituted the rules of the national House of Representatives for Cushing's *Manual*, no changes have been made in the rules of the Republican national convention since 1880. The policy of this party with regard to state voting has thus been clear and consistent; each delegate has always been allowed to cast his own vote as he chooses under all circumstances.

Let us now recall the statements of Mr. Dallinger with which we started out. "Either in the form of a rule adopted by the convention, or in the form of instructions by the state conventions, this practice of having the majority of each state delegation cast the

<sup>1</sup> *Official Proceedings*, 1880, p. 152.

<sup>2</sup> The Grant delegates sent by the convention of Illinois were unseated by the committee on credentials. See *New York Tribune*, June 5, 1880, p. 5.

<sup>3</sup> *Official Proceedings*, 1880, p. 32. A convenient, full, and fairly accurate account of the convention of 1880 may be found in W. R. Balch's *Life of Garfield*.

entire vote of the state soon became firmly fixed in the proceedings of both the leading political parties. The first successful revolt against this disregard of the rights of the minority occurred in the national convention of the Republican party in 1876." "This undemocratic custom . . . was abandoned by the Republicans in 1880 ; but it still prevails in a modified form in the national councils of the Democratic party."

It is clear that these statements are wide of the mark. The assertion that the custom soon became firmly fixed in the conventions of both the leading political parties is not true from any point of view. In the Republican conventions it never was knowingly tolerated at all. No minority, that is to say, ever made a protest against the use of the unit rule in the Republican convention which was not sustained. Neither can it be safely said that the custom soon became firmly fixed in the proceedings of the Democratic convention, and exists now in a modified form only. The evidence shows rather that there has been very little modification of the custom as it has prevailed in Democratic conventions since 1860 ; and that little has been in the direction of its establishment on a firmer and firmer basis. Again, Mr. Dalinger says that the "first successful revolt" against this practice was made in the Republican convention of 1876 and that its final abandonment by that party was completed in 1880. This, again, is in no sense the case. Say rather that in 1876 the first important attempt was made to introduce the custom into the Republican convention, but unsuccessfully ; and that in 1880 the consistent practice of that party was crystallized in a rule which secured future conventions from all attempts of a similar nature. The whole matter may be stated briefly in this fashion : The national convention of the Democratic party has always allowed states to use the unit rule ; the national convention of the Republican party has never allowed them to use it.

This, then, is the way in which each of the great parties has viewed the unit rule ; and here, manifestly, is to be seen—what we have been seeking all along—the difference between the two types of convention. One allows the state to instruct its delegation as it chooses, and in doing so it defers to the state as the final authority ; it recognizes an authority higher than itself. The other does not allow a state to instruct its delegation, except in conformity with its own rules, and in refusing to do so it overrules the authority of the state ; it recognizes no authority higher than itself. The difference is in essence that between states' rights and nationalism. The privilege which the Democratic party gives to the states of casting

their votes as a unit is, in this sense, a survival of that doctrine which is so old and so effective a tradition in the party ; representative of one persistent tendency which remains unaffected by all its changing organizations—a tendency towards localism, a protest against centralization. “ I bid you consider long and well,” is the exclamation of Mr. Fellows, “ before you strike down . . . the sovereign power of our state expressed by the unanimous will of its delegates.”<sup>1</sup> “ I know,” says Mr. Doolittle, “ that in the Republican party—a party which believes that Congress and the Federal Government have every power which is not expressly denied, and that the states have hardly any rights left which the Federal Government is bound to respect—they can adopt in their convention this idea that a state does not control its own delegation in a national convention. Not so in the convention of the great Democratic party. We stand, Mr. President, for the rights of the states.”<sup>2</sup> But it may be said that the Republican party, in allowing each district to vote independently of the state, really stands for localism much more than the Democratic party, which makes the state the unit. It is to be remembered, however, that the Republican party does not recognize units of any sort, political or geographical ; there are two delegates from each district and each delegate is master of his own vote. “ The principle which is involved in this controversy,” said Mr. Atkins of Kansas in the Republican convention of 1876,<sup>3</sup> “ is whether the state of Pennsylvania shall make laws for this convention ; whether this convention is supreme and shall make its own laws. We are supreme. We are original. We stand here representing the great Republican party of the United States and neither Pennsylvania nor New York nor any state can come in here and bind us down with their caucus resolutions.” Here then is each side clearly stated by its own advocate. Mr. Doolittle says, “ We stand for the rights of the states,” but Mr. Atkins says, “ The great Republican party shall not be bound down by the caucus resolutions of any state.”

That the Republican convention should reveal centralizing tendencies and the Democratic convention decentralizing tendencies will not seem strange, perhaps, to those who are familiar with American history ; for these institutions are only representative of the parties under whose care they have been established. The Democratic party in its origin may be traced back to the speculative individualism of the eighteenth century. Its formative period was at a time

<sup>1</sup> *Official Proceedings, Democratic National Convention, 1884*, pp. 10–11.

<sup>2</sup> *Ibid.*, p. 16.

<sup>3</sup> *New York Tribune*, 1876, June 17, pp. 6–7.

when men were engaged in defining the Constitution—when an effort was being made to estimate justly the powers and privileges which had already been gained. From this effort and under these influences, the party emerged with the cardinal doctrines of strict construction and states' rights. For seventy years the party was, with few exceptions, the predominating one; but to an increasing degree it found its influence limited to the Southern states, where its doctrines became increasingly the creed of all men. By 1860 the Democratic party had lost control of the North, while in the South it could assert the absolute sovereignty of the states, and the indisputable right of secession. The war decided otherwise; but the party, still persisting, has until recently found its main strength, as always, in the South. The old doctrine of states' rights, it is true, is no longer advocated even in the South, but it nevertheless lives on, influencing the minds of men as a powerful tradition, leading them to protest at every opportunity against the centralizing spirit of the time.

The Republican party, on the other hand, had its origin in discussions over a question of moral right and justice. Its formative period was at a time, not when powers were to be estimated, but when rights were to be asserted; its existence did not depend on interpretation, but on force. It looked eagerly to the central government for the exercise of this force as the only power through which its own principles could be maintained. It turned to the central government, not because of its theories, but because of its necessities; and the war only increased this habit of looking for a central power—a directing force—which, of necessity if not of right, subordinated everything to itself. This was its necessary outcome, because the “saving of the Union” and its reconstruction—results to be accomplished at any cost—made the effective centralization of power necessary for success. It is not strange, therefore, that a party with the tradition of a four years' dictatorship and the memory of an “absolute Congress”; with firm faith in the utility of law and the potency of government for good; above all feeling that the doctrine of states' rights was the justification of “traitors” for the destruction of the Union—the Union which it saved—it is not strange that the tendency of such a party should make for centralization and not for localism.

Nor is it strange that these two parties, in moulding the convention idea for its highest work, should divide on what is perhaps the most distinguishing principle of their respective organizations.

CARL BECKER.